

CITY OF AUSTIN ETHICS REVIEW COMMISSION

THOMAS CLARK	§	
Complainant	§	
	§	Complaint No. 20160218
v.	§	(Amended)
	§	
SABINO RENTERIA	§	
Respondent.	§	

ORDER ON PRELIMINARY HEARING

I. PROCEDURAL HISTORY

On February 18, 2016, Thomas Clark (“Complainant”) submitted to the Austin City Clerk (“City Clerk”) a Sworn Complaint (“the Complaint”) against Councilmember Sabino Renteria (“Respondent”). On February 19, 2016, the City Clerk sent a copy of the Complaint and a notice of filing to the City Attorney, the Ethics Review Commission (“the Commission”), the Complainant, and the Respondent.

On February 29, 2016, Commission Executive Liaison and City of Austin Assistant City Attorney Cynthia Tom (“Tom”) issued a Notice of Preliminary Hearing, setting a Preliminary Hearing of the Commission for March 9, 2016, and advising the Respondent and Complainant of procedures for the Preliminary Hearing. On March 18, 2016, Tom issued a Revised Notice of Preliminary Hearing resetting the Preliminary Hearing to April 13, 2016. On April 12, 2016, the Complainant filed an amended complaint, and on that date the City Clerk sent a copy of the amended Complaint and a notice of filing to the City Attorney, the Commission, the Complainant, and the Respondent.



On April 8, 2016, Commission Staff Liaison Jessica Aranda posted a Notice of Regular Meeting and Agenda for the Commission, which included the April 13, 2016, preliminary hearing on the Complaint.

II. FINDINGS OF FACT

1. Respondent is an Austin City Council member.
2. Complainant alleges that Respondent, in violation of Chapter 2-1, Section 2-1-24, Austin City Code, voted, spoke, and held policy making meetings related to the restriction of Type 2 rental properties in the City of Austin. The Complaint did not include a specific date for any alleged violation.

III. CONCLUSIONS OF LAW

1. The April 13, 2016, meeting of the Commission and the Preliminary Hearing were properly noticed in accordance with Chapter 2-7 of the City Code, the Ethics and Financial Disclosure Ordinance (“Chapter 2-7”), and the Texas Open Meetings Act.
2. The Commission has jurisdiction over complaints alleging violations of Chapter 2-2 of the City Code (Campaign Finance), Chapter 4-8 of the City Code (Regulation of Lobbyists), Article III, Section 8 of the City Charter, (Limits on Campaign Contributions and Expenditures), Chapter 2-7 of the City Code (Ethics and Financial Disclosure), and Section 2-1-24 of the City Code (Conflict of Interest and Recusal), and Section 2-1-24 of the City Code (Conflict of Interest and Recusal).



3. The Commission does not have general jurisdiction over allegations of violations of other parts of the City Code and City Charter.
4. Under Section 2-7-44 of the City Code, (Section 2-7-44) the Respondent is not required to attend or make any statement at a preliminary hearing. Complainant and Respondent were each afforded an opportunity to appear at the Preliminary Hearing in accordance with Chapter 2-7.
5. Under Section 2-7-44 of the City Code, the issue to be considered by the Commission at a preliminary hearing is the existence of reasonable grounds to believe that a violation of a provision within the jurisdiction of the Commission has occurred.
6. Under Section 2-7-44, at any time during a preliminary hearing, the Commission may dismiss a complaint if it does not allege conduct that would be a violation of a provision within the jurisdiction of the Commission.
7. If the allegations in the complaint concern acts or omissions that are wholly outside the jurisdiction of the Commission, the complaint may be dismissed without affording an opportunity that it be revised and resubmitted.
8. If the allegations in the complaint concern provisions that are within the jurisdiction of the Commission, but the complaint does not allege conduct which would be a violation of those provisions, then the complainant shall be afforded one opportunity to revise and resubmit the complaint.



9. The section of Austin City Code, Chapter 2-1, Section 2-1-24, made the basis of the Complaint is within the jurisdiction of the Commission, but that section does not apply to a city councilmember.
10. Commission Rule I.B.1. requires that a complaint include the date of each alleged violation.

IV. DETERMINATIONS OF THE ETHICS REVIEW COMMISSION

1. The Commission determines that reasonable grounds do not exist to believe that a violation of a provision within the jurisdiction of the Commission has occurred as a result of the actions or omissions as alleged in the Complaint.
2. The Commission will not set the Complaint for final hearing.

V. ACTIONS OF THE ETHICS REVIEW COMMISSION

1. The Complaint is DISMISSED.
2. The Complainant shall be afforded an opportunity to revise and resubmit the Complaint within 10 business days of April 13, 2016.

ORDERED as of this 13th day of April, 2016.



Peter Einhorn
Ethics Review Commission Chair

